

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

ANDREW MASSARELLI & MICHELLE	:	
MASSARELLI,	:	
	:	
Plaintiffs,	:	
	:	Civil Action No. 05-266-KAJ
v.	:	
	:	
UNITED STATES OF AMERICA,	:	
	:	
Defendant and Third-Party	:	
Plaintiff,	:	
	:	
v.	:	
	:	
BUDGET RENT A CAR	:	
CORPORATION and JEFFREY	:	
McCARTHY,	:	
	:	
Third Party Defendants.	:	

JOINT STIPULATION AND ORDER FOR TEMPORARY STAY

WHEREAS, Plaintiffs Andrew Massarelli and Michelle Massarelli (“Plaintiffs”) filed a Complaint in the above-captioned action (the “Action”) against the United States of America on May 4, 2005, which Complaint was served on August 8, 2005; and

WHEREAS, Plaintiffs allege in part that an employee of the United States, acting within the scope of his office or employment, negligently drove a vehicle striking another vehicle in which Plaintiff Andrew Massarelli was a passenger; and

WHEREAS, Plaintiffs also allege in part that as a direct and proximate cause of the aforementioned collision, Plaintiffs have suffered damages and injuries; and

WHEREAS, on October 7, 2005, the United States answered the Complaint, filed a

partial Motion to Dismiss, and filed a Third Party Complaint against Budget Rent A Car Corporation and Jeffrey McCarthy (the “Third Party Defendants”); and

WHEREAS, the United States alleges that to the extent it is found liable to Plaintiffs for damages, Budget Rent A Car Corporation is liable to the United States for indemnification under the terms and conditions of the “U.S. Government Car Rental Agreement Number 2” for any such damages; and

WHEREAS, the United States also alleges that to the extent the it is held liable to and pays Plaintiffs damages, Jeffrey McCarthy is liable for contribution to the United States as a joint tortfeasor; and

WHEREAS, on October 7, 2005, the United States sent letters by certified mail to the Third Party Defendants requesting that the Third Party Defendants waive service of the Third Party Complaint pursuant to Fed. R. Civ. P. 4(d); and

WHEREAS, there is no indication that the Third Party Defendants have been served with the Third Party Complaint or otherwise appeared in this Action; and

WHEREAS, the United States intends to formally serve the Third Party Defendants in a manner authorized by the Federal Rules of Civil Procedure and, to the extent authorized by those Rules, seek reimbursement of the full costs of such service, if the Third Party Defendants do not waive service within 30 days; and

WHEREAS, Plaintiffs and the United States have an obligation to confer and discuss deadlines for discovery and other matters so that those dates can be recommended to the Court for inclusion in the Court’s Scheduling Order;

NOW, THEREFORE, IT IS STIPULATED AND AGREED THAT:

1. Plaintiffs and the United States believe that it would promote judicial efficiency

and avoid duplicative efforts by the parties to allow the Third Party Defendants to participate in discussions concerning dates to be recommended to the Court for inclusion in the Court's Scheduling Order;

2. To allow the Third Party Defendants the opportunity to participate in discussions concerning the Court's Scheduling Order, this Action shall be temporarily stayed until the Third Party Defendants have appeared in the Action and answered or otherwise responded to the Third Party Complaint, or until the Third Party Defendants have defaulted on the Third Party Complaint, whichever is sooner; and

3. The temporary stay imposed herein does not affect Plaintiffs' obligation to respond to the United States' partial Motion to Dismiss the Complaint, or the Court's ability to rule on the same.

DATED: October 17, 2005

The Law Office of
William F. Jaworski, LLC

Colm F. Connolly
United States Attorney

By: /s/ William F. Jaworski, Jr.
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Attorney for the United States

IT IS SO ORDERED:

The Honorable Kent A. Jordan, U.S. District Judge

DATED: October ____, 2005.

CERTIFICATE OF SERVICE

I, Seth M. Beausang, hereby certify that on October 17, 2005, I served copies of the Joint Stipulation and Order for Temporary Stay and Letter to the Honorable Kent A. Jordan on the following persons in the manner indicated:

BY E-FILING

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